

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

Mark E. Gessner,

Plaintiff,

v.

**Case No. 3:11-cv-286
Judge Thomas M. Rose**

John S. Howard, et al.,

Defendants.

**ENTRY AND ORDER DENYING SECOND MOTION FOR
EXTENSION OF TIME, DOC. 53, ADOPTING REPORT
AND RECOMMENDATION, DOC. 48, AND GRANTING
MOTION IN LIMINE SEEKING TO EXCLUDE
PLAINTIFF'S UNLAWFUL ARREST CLAIM, DOC. 49.**

Pending before the Court is Plaintiff's Second Motion for Extension of Time. Doc. 53. Plaintiff's first motion for extension of time requested an extension of 14 days until Friday, May 3, 2013. Doc. 51. The Court granted the motion in part, due to the proximity of trial. Plaintiff was granted until April 29, 2013 to object. An expedited briefing schedule was established and the Final Pretrial Conference was reset to May 9, 2013.

Plaintiff now informs the Court that he has again failed to comply with the scheduling order of the Court, requesting an extension until Monday, May 6. Plaintiff's request would require the Court to set another expedited schedule, set another date for the final pretrial

conference, and, most importantly, would jeopardize the trial date. Plaintiff has asserted no good cause for his delay, the motion, Doc. 53, is **DENIED**.

The Court has reviewed de novo the Report and Recommendations of United States Magistrate Judge Sharon L. Ovington, Doc. 49, to whom this case was originally referred pursuant to 28 U.S.C. §636(b). While Plaintiff has not chosen to file objections to the Report and Recommendations, the Court has reviewed the Report and Recommendation and finds it correct in all aspects and hereby adopts said Report and Recommendations. Accordingly, it is hereby ORDERED that the Report and Recommendations filed on September 3, 2010 (Doc. #6) is **ADOPTED** in full.

The Court having adopted the Report and Recommendation, it is established as a matter of law that Defendants had probable cause to arrest Plaintiff. Therefore, Defendant Thomas J. Cope's Motion in limine Seeking to Exclude Plaintiff's Unlawful Arrest Claim, Doc. 49, is **GRANTED**.

The case remains scheduled for a final pretrial conference on May 9 at 1:30 in chambers. Failure to appear for this conference may result in sanctions including possible dismissal of claims or entry of default.

DONE and **ORDERED** in Dayton, Ohio, this Wednesday, May 1, 2013.

s/Thomas M. Rose

THOMAS M. ROSE
UNITED STATES DISTRICT JUDGE